



Onyx Dkt No. 1046.ORD
USSN: 09/410,462
PATENT

Certificate of Transmission by Mailing, Facsimile, or Electronic Transmission (37 C.F.R. §1.8)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is:

☒ being deposited with the U.S. Postal Service on the date indicated below and with sufficient postage addressed to Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

☐ being facsimile transmitted to the Commissioner for Patents, U.S.P.T.O. (Fax No. 571-273-8300) on the date indicated below.

☐ being transmitted to the Commissioner for Patents via the U.S.P.T.O. Electronic Filing System on the date indicated below.

Signature:

Gary R Fabian

Date: 26 August 2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Williams, A., et al.

Confirmation No. 6889

Serial No.: 09/410,462

Art Unit: 1635

Filing Date: 1 October 1999

Examiner: J.E. Angell

Title: A SINGLE AGENT METHOD FOR KILLING TUMOR AND TUMOR ASSOCIATED
ENDOTHELIAL CELLS USING ADENOVIRAL MUTANTS

TRANSMITTAL

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing in the above-referenced application are the following documents:

1. Transmittal, including appeal brief fee;
2. Brief on Appeal;
3. Return Receipt postcard; and
4. Certificates of First Class Mailing.

This is an appeal of the Office action, mailed 7 April 2009, finally rejecting claims 6, 7, 11, 15, 17, and 18. A Notice of Appeal (Reinstatement) was filed by Appellants on 7 July 2009.

Accordingly, the Appeal Brief is due, without extension, on Monday, 7 September 2009. However, 7 September 2009 is a federal holiday. Accordingly, the Appeal Brief is due on Tuesday, 8 September 2009.

M.P.E.P. 1204.01 Reinstatement of Appeal [R-3]

If an appellant wishes to reinstate an appeal after prosecution is reopened, appellant must file a new notice of appeal in compliance with 37 CFR 41.31 and a complete new appeal brief in compliance with 37 CFR 41.37. Any previously paid appeal fees set forth in 37 CFR 41.20 for filing a notice of appeal, filing an appeal brief, and requesting an oral hearing (if applicable) will be applied to the new appeal on the same application as long as a final Board decision has not been made on the prior appeal. If, however, the appeal fees have increased since they were previously paid, then appellant must pay the difference between the current fee(s) and the amount previously paid. Appellant must file a complete new appeal brief in compliance with the format and content requirements of 37 CFR 41.37(c) within two months from the date of filing the new notice of appeal. See MPEP § 1205.

Appellants filed a Notice of Appeal on 27 September 2007 and filed a Brief on Appeal on 23 February 2008. The Examiner then reopened prosecution in an Office action mailed 16 June 2008. No final Board decision was made on the appeal. The entity status of this application has changed since the filing of the first Notice of Appeal and first Brief on Appeal. Appellants filed a Notice of Appeal (Reinstatement) and paid the required fee on 7 July 2009.

The current fee for filing a brief in support of an appeal is \$540 (large entity rate). Appellants previously paid \$255 when filing the Brief on Appeal on 23 February 2008. Thus, the amount due for the present Brief on Appeal is \$285.00.

Authorization to Charge Deposit Account

The Commissioner is hereby authorized to charge to Deposit Account No. 15-0615 the required fee of **\$285.00** under 37 C.F.R. §41.20(b)(2) for filing a brief in support of an appeal (please reference **ONYX1046.ORD**). No additional fee is believed due; however, the Commissioner is hereby authorized to charge to Deposit Account No. 15-0615 any fees under 37 C.F.R. §§ 1.16, 1.17, 1.21 and 41.20 which may be required by this paper, with the exception of the payment of the issue fee.

Please direct all further communications in this application to:

CUSTOMER NO: 037499

Gregory Giotto, Esq.
Registration No. 32,028
ONYX Pharmaceuticals, Inc.
2100 Powell Street
Emeryville, CA 94608
Phone: (510) 597-6502
Facsimile: (510) 597-6610.

Respectfully submitted,

Date: 26 Aug 2009

By: Gary R. Fabian
Gary R. Fabian, Ph.D.
Registration No. 33,875
Agent for Appellants